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NC POLICY WATCH

Stories & voices
that **matter**.

Atlantic Coast Pipeline sues NC landowners, asks federal court to allow “quick take” of properties

By [Lisa Sorg](#)

The [Gardner farm](#) in Wade, population 567, in Cumberland County has been in the family for more than 70 years. On these 960 acres, two generations of Gardners have raised grains, oats, barley, soybeans, and more recently, beef cattle.

But the Gardner family is now among several defendants in a federal case involving the Atlantic Coast Pipeline. ACP, LLC, which includes majority owners Duke Energy and Dominion Energy, filed several motions over the past week asking US District Court Judge Terence Boyle to allow them to use eminent domain to seize portions of the defendants’ property. However, what distinguishes this case is that ACP, LLC wants to take the property without paying the land owners first. This is known as a “quick take.”

Similar documents have been filed against five defendants, including owners of a strawberry farm, in Nash County.

Henry Kitchin Jr., an attorney with McGuireWoods in Wilmington who is representing ACP, LLC, did not respond to questions via email.

Doris Gardner, who recently turned 90, said the pipeline would cross a small corner of her family farm. Although a map indicates a temporary easement would encompass a little more than a tenth of an acre, that land is nonetheless the Gardners’. “Maybe we don’t want the pipeline,” she said. “Maybe we don’t need it.”

Under a typical eminent domain case, the party doing the seizing, such as a government agency that is building a highway, must pay the landowner “just compensation” for the use of the property. What qualifies as “just” is open to interpretation; land owners in these cases often say they’ve been underpaid for their property’s value. At public forums about the Atlantic Coast Pipeline, several property owners have complained that they felt lowballed by land agents in the financial negotiations.

Once landowners have been paid, then a government agency or company can access the property.

But in this recent case, the landowners have rejected ACP, LLC’s offers, which, according to court documents, each exceed \$3,000. Since the negotiations have reached an impasse, ACP, LLC is asking the judge to allow the company to deposit money in a designated account to pay the property owners for the easements later. However, the Natural Gas Act of 1938, one of the main statutes governing the project, contains no quick-take

provision.

“This is going to be a big fight between the gas company lawyers, the defense lawyers and environmental groups,” said property rights attorney Charles Lollar. [[Read more...](#)]

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